



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,733	08/05/2003	Ahmad Moradi	7570-A03-005	6651
27317 7590 06/18/2008 Fleit Gibbons Gutman Bongini & Bianco PL 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180				
EXAMINER				
DAILEY, THOMAS J				
ART UNIT		PAPER NUMBER		
2152				
MAIL DATE		DELIVERY MODE		
06/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/634,733

Applicant(s)

MORADI ET AL.

Examiner

THOMAS J. DAILEY

Art Unit

2152

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-121 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-121 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-121 are pending.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, 17-37, 40-64, 78-85, 92-101, and 103-114 are drawn to demand based messaging, classified in class 709, subclass 206.
 - II. Claims 10-16, 65-73, 77, 86-91, and 115-118 are drawn to computer-to-computer data streaming, classified in class 709, subclass 231.
 - III. Claims 38 and 102 are drawn to means or steps for organizing and inter-relating data or files, classified in class 707, subclass 100.
 - IV. Claim 39 is drawn to means or steps for using programming language constructs, classified 717/114.
 - V. Claims 74-76 and 119-121 are drawn to computer-to-computer data transfer regulating, classified in class 709, subclass 232.
3. The inventions are independent or distinct, each from the other for being combination/sub combinations and/or for being mutually exclusive.
4. **Regarding the restriction of Inventions I and II.**
5. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not

require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)).

6. In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the limitations of "creating an email to which is associated a video clip and an image file" (e.g. claim 17, line 1-2), "establishing a sender's email address" (e.g. claim 1, line 6), and "establishing a subject heading for broadcasting a video email" (e.g. claim 1, line 7) are not required by invention II. The subcombination has separate utility such as distributing video via electronic mail to specific persons - this feature is not suggested or required by the other claims.
7. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.
8. **Regarding the restriction of Invention I vs. Invention III vs. Invention IV vs. Invention V and Invention II vs. Invention III vs. Invention IV vs. Invention V.**

9. Inventions I, III, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.
10. In the instant case, invention I has separate utility such as generating and sending video emails; invention III has separate utility such as importing email addresses from a text file; invention IV has separate utility such as managing and generating computer codes; invention V has separate utility such as computing a user's best viewing protocol for viewing video over a network connection. See MPEP § 806.05(d).
11. Inventions II, III, IV, and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable.
12. In the instant case, invention II has separate utility such as giving access to video data over a network via an intelligent video streaming server; invention III has separate utility such as importing email addresses from a text file; invention IV has separate utility such as managing and generating computer codes; invention V has separate utility such as computing a user's best viewing protocol for viewing video over a network connection. See MPEP § 806.05(d).

13. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
14. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, III, IV, and V, restriction for examination purposes as indicated is proper.
15. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2146

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
Examiner, Art Unit 2152

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2146